

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ROBERT N. PUGH,) CASE NO. C07-0752-RSL
)
Petitioner,)
)
v.) REPORT AND RECOMMENDATION
)
ROBERT J. PALMQUIST, Warden,)
Federal Detention Center, et al.,)
)
Respondents.)
_____)

Petitioner is a federal prisoner who is currently incarcerated at the Federal Detention Center at SeaTac, Washington. He is serving a twenty-four month sentence imposed following his conviction on drug charges in the United States District Court for the Eastern District of Washington. (*See* Dkt. No. 11 at 2.) Petitioner has filed a federal habeas petition pursuant to 28 U.S.C. § 2241 in which he challenges the validity of the regulation issued by the Federal Bureau of Prisons (“BOP”) which categorically limits the class of prisoners eligible for release to community confinement based on the amount of time the prisoner has left to serve. (Dkt. No. 3.)

In *Pankratz v. Palmquist*, Case No. C06-1328-RSL, the District Court found that the regulation challenged in these proceedings, 28 C.F.R. § 570.21 (“the regulation”), which limits the

01 amount of time an inmate may spend in community confinement to 10% of the inmate's sentence,
02 was invalid because it exceeded the authority granted to the BOP under 18 U.S.C. § 3621(b).

03 Respondents have filed a response to the petition in which they set forth essentially the
04 same legal argument advanced in *Pankratz*. (See Dkt. No. 11.) This Court sees no basis on which
05 to distinguish the present case from *Pankratz*. Accordingly, this Court recommends granting the
06 same relief afforded in *Pankratz*: that BOP be directed to review petitioner's case under the
07 factors outlined in 18 U.S.C. § 3621(b), without regard to the time limits set forth in the
08 regulation. A proposed order accompanies this Report and Recommendation.

09 DATED this 13th day of July, 2007.

10
11 
12 Mary Alice Theiler
13 United States Magistrate Judge
14
15
16
17
18
19
20
21
22